Supreme Court, U.S.
FILED
02 457 AUG 1 2002
OFFICE OF THE CLERK

No.

IN THE

SUPREME COURT OF THE UNITED STATES

MORETON ROLLESTON, JR.,

Petitioner,

v.

SANDEASE, LTD., *et al.*,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO
THE SUPREME COURT OF THE STATE OF GEORGIA

PETITION FOR WRIT OF CERTIORARI

MORETON ROLLESTON, JR.
2035 Garraux Road, N.W.
Atlanta, Georgia 30327
(404) 237-3666
Georgia Bar No. 613700

Petitioner Pro Se.

Washington, D.C. • THIEL PRESS • (202) 328-3286

17 pp

QUESTIONS PRESENTED FOR REVIEW

This is a RICO case. The violations of the U.S. and Georgia RICO (O.C.G.A. §16-14-4) statutes were conceived, initiated, conducted and supervised by an attorney, Respondent Koski. His associates and co-conspirators were the clients of this attorney; they included four individuals and 2 corporations.

The illegal scheme is described in detail in Exhibit "C" to this petition. The scheme was carried out completely by Koski and all other respondents. The predicate acts are still being pursued.

This ruling of the trial court violated Amendment VII of the U.S. Constitution, U.S. RICO and Georgia RICO.

LIST OF PARTIES

1. Moreton Rolleston, Jr.
   Petitioner

2. Sandease, Ltd., Coast House, Ltd., Joseph A. McBride, Timothy B. McBridge, Frank McBride, Robert C. Koski,
   Respondents.

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TABLE OF AUTHORITIES

Cases:

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United States v. Hartley, 678 Fed. 2d 990 0
United States v. Carter, 721 Fed. 2d, 1514, 1515 (11th Circuit) 0
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Reforming Diversity Jurisdiction and Civil RICO, 21 St. Mary's L.J. 5, 9. 0

Statutes:

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O.C.G.A. 16-10-95(a)(1) 0

O.C.G.A. 13-8-2(a)(5) 0

O.C.G.A. 16-14-1, 16-14-2, 16-14-3, 16-14-4 . . . . . i, 2

Constitutional Provisions:

Amendment VII of U.S. Constitution 1

PETITION FOR A WRIT OF CERTIORARI

The jurisdiction of this Court to review the judgment of the Supreme Court of Georgia is involved under 28 U.S.C. Paragraph 1257.

STATEMENT OF CASE

The allegations of the complaint regarding Koski's letter (Appendix C) were admitted. There was no hearing. There was no evidence introduced. The trial court was in error by granting summary judgment dismissing the complaint and by granting motion for judgment on the pleadings.

ARGUMENT

1.

A RICO violation involving $3,800,000 has survived without punishment. Grounds for jurisdiction is past and is continuing violation of Georgia and U.S. RICO.

2.

Amendment VII of U.S. Constitution guaranteed a trial by jury. The granting of a summary judgment does not meet the standard of trial by jury. The granting of a summary judgment is a trial by a judge and is unconstitutional.

The trial court granted a summary judgment in this case and said judgment violated Article VII to the U.S. Constitution.

3.

The RICO scheme, as described in Exhibit C, is a flagrant, blatant violation of:

(a) O.C.G.A. 16-14-4 (RICO)
(b) O.C.G.A. 16-10-95 (a) (1) (barratry)
(c) O.C.G.A. 13-8-2(a)(5) (champerty)
(d) Rules of professional ethics and conduct of attorneys in Georgia and every other state

4.

Champerty is defined in:

(a) Sapp v. Davis, 176 Ga. 265, 168 S.E. 62
(b) Clark v. Harrison, 182 Ga. 56, 184 S.E. 620

CONCLUSION

Brevity is precious. The trial court and the Supreme Court of Georgia erred.

Respectfully submitted,

MORETON ROLLESTON, JR.
2035 Garraux Road, N.W.
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(404) 237-3666
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Petitioner Pro Se.

APPENDIX A

SUPREME COURT OF THE STATE OF GEORGIA
CLERK'S OFFICE
ATLANTA

DATE: May 28, 2002

Case No. S02C0716

MORETON ROLLESTON, JR. v. SANDEASE, LTD., et al.

COURT OF APPEALS CASE NO. A01A2322

The Supreme Court today denied the petition for certiorari in this case.

All the Justices concur.

_____

_____

_____

_____

Sherie M. Welch, Clerk

APPENDIX B

THIRD DIVISION
JOHNSON, P. J.,
RUFFIN and ELLINGTON, JJ.

NOTICE: Motions for reconsideration must be *physically received* in our clerk's office within ten days of the date of decision to be deemed timely filed. (Court of Appeals Rules 4 and 37, December 14, 2000) http://www.appeals.courts.state.ga.us/rules.html

January 9, 2002

NOT TO BE OFFICIALLY REPORTED

In the Court of Appeals of Georgia

A01A2322. ROLLESTON v. SANDEASE, LTD, et al.

ELLINGTON, Judge.

In this case, the following circumstances exist and are dispositive of the appeal:

(1) The evidence supports the judgment;

(2) No reversible error of law appears and an opinion would have no precedential value;

(3) The judgment of the court below adequately explains the decision; and

(4) The issues are controlled adversely to the appellant for the reasons and authority given in the appellee's brief.

The judgment of the court below therefore is affirmed in accordance with Court of Appeals Rule 36.

Judgment affirmed. Johnson, P.J., and Ruffin, J., concur.

APPENDIX C

REMLER, KOSKI & NEAR
A Professional Corporation
Attorneys At Law

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ATLANTA, GEORGIA 30326
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ALBERT N. REMLER
ROBERT C. KOSKI
BRIEN C. NEAR
MARC G. MELIKIA
OF COUNSEL
DAVID R. KAM

August 22, 1991

Taylor W. Jones, Esquire
Myles E. Eastwood, Esquire
JONES, BROWN, BRENNAN & EASTWOOD
1900 One Georgia Center
600 West Peachtree Street, NW
Atlanta, GA 30308

Re: *Coast House, Ltd., and Sandease, Ltd. v. John Randolph Cherry, Executor,* Fulton County Superior Court, Civil Action File No: D-81176

Gentlemen:

This is to confirm the terms we have agreed upon in complete satisfaction of our clients' judgment against your client, the Estate of Rebecca Sims. Signature hereunder at the space provided shall constitute a final acceptance of the agreement, with the necessary papers to be completed and presented for final execution on or by Friday, September 6, 1991. The terms we have agreed upon are as follows:

(1) Taylor James and the Estate shall have an option for the purchase or designation of a purchaser of the house and lot at 1777 West Paces Ferry Road for a purchase price, payable all cash net to the Plaintiffs, in the amount of $500,000.00. This option shall be open until Friday, September 6, and shall require the payment by the purchaser of $50,000.00 earnest money, which sum will be non-refundable, except in the event of a failure of title, and will be held in our escrow account until closing and will apply toward the purchase price at closing. The sale must be closed on or before October 21, 1991. If such a contract is in existence, signed by the Sims Estate and the purchaser, and the $50,000.00 earnest money is paid by 5:00 p.m., on September 6, 1991, the Sims Estate will not be required to convey title to the house to our clients and your client will instead pay the $500,000.00 in cash out of the proceeds of the closing on or before October 21, 1991.

(2) If you or your client are not able to produce a signed contract accompanied by $50,000.00 earnest money as outlined in paragraph 1 above by 5:00 p.m., September 6, 1991, we will at that time have a closing in which your client will convey to our clients the house and lot at 1777 West Paces Ferry Road by our Executor's Deed with affidavit of title, in a form consistent with that used in the transfer of the Estate's interest in Camellia Cottage to the plaintiffs. The house will be conveyed free and clear of all liens and uncumbrances, except 1991 property taxes. The taxes will be prorated as of September 6, 1991. My clients will pay any taxes due but not paid on the property, and will accept an unsecured note from the estate for that sum plus any additional pro ration, which will be payable by the estate from the sale of any other property in the estate, and in any event; no later than August 16, 1992.

(3) The house is presently inhabited by a tenant, who is a friend of Randy Cherry and who is entitled to thirty days' notice to vacate the property. We will require that he be given immediate notice to vacate, pursuant to that entitlement. Upon his vacation, Randy Cherry will have an additional five days to move the furniture and personal property out of the house, but all items of furniture and personal property shall remain the property of the Sims Estate.

(4) The Plaintiffs will agree to the distribution by the Estate to the heirs of Mrs. Sims, free of all claims under the judgment and free of any claims based upon or arising out of the note contemplated in paragraph 7 hereafter, of both Cherokee County properties, the Wight Family Partnership, any other partnership in which the Estate may have any interest, the proceeds of any Estate tax return refund, all personal property owned by Mrs. Sims before her death, and any liquid assets presently in the Estate. At the time of conveyance of the property at 1777 West Paces Ferry Road to my clients or, in the alternative, the payment of $500,000.00 cash to my clients, my clients will execute quitclaim deeds releasing any and all liens and claims against the two Cherokee County properties and quitclaim bills of sale releasing any and all claims or liens against the above-described intangible assets, liquid assets and personal properties.

(5) The Estate will be given a credit against the amount of the judgment for the appraised value of the property at 1777 West Paces Ferry road as stated on the Estate tax return, and my clients will support the Estate in establishing that amount as the value of the property agreed upon at the time of settlement in the event that the Property is transfered to the Plaintiffs pursuant to this agreement. Otherwise, the estate will receive a credit

against the judgment in the amount of the cash actually paid.

(6) The Estate will execute an unsecured note bearing interest the legal rate of 12% per annum to my clients in the amount of the judgment, including accrued interest, less any payments and/or less the agreed upon appraised value of the property at 1777 West Paces Ferry Road.

(7) Your client will hire the attorneys designated by the Plaintiffs to pursue a claim for legal malpractice and/or contribution against Mr. Moreton Rolleston, Jr. on behalf of the Estate. My clients will agree to pay any and all necessary expenses involved in said litigation to be pursued on the basis of a contingent fee not to exceed thirty percent. The net recovery of said claim will be payable upon receipt toward the note referred to in paragraph 7 above; with any remainder after full payment of the note to be paid to the Estate. This litigation is to be commenced as soon as practicable.

(8) The Sims Estate and your law firm as its attorneys agree to fully and completely cooperate with the plaintiffs in all efforts taken for the purpose of pursuing the contribution and malpractice claims against Mr. Rolleston, the pending *O.C.G.A.* §9-15-14 claim and any other claims asserted against Mr. Rolleston, which cooperation will include providing complete access to your files and reasonable consultations with the attorneys representing the plaintiffs.

(9) The plaintiffs will indemnity and hold harmless the Sims Estate, its executors and heirs and its attorneys as to any claims for abusive litigation under §9-15-14, *Yost v. Torok,* or its statutory successor, or any claims for conspiracy or similar torts alleged to result from or relate to this settlement agreement as applied to any

claim pursued on behalf of the estate against Mr. Rolleston. The attorney(s) to be selected by the plaintiffs pursuant to paragraph 7 above shall also represent the Estate at the hearing dealing with potential liability of Mr. Rolleston, pursuant to §9-15-14.

(10) The parties will agree that there is no basis for appeal of the judgment in this litigation and the pending motion for new trial will be dismissed.

I believe the above incorporates the terms we have agreed upon. Please signify your agreement by signing the enclosed copy of this letter and returning it to me. Thank you.

Sincerely,

/s/ Robert C. Koski
Robert C. Koski

ACCEPTED BY

/s/ Taylor W. Jones
Attorney for the estate of
Rebecca W. Cherry Sims

"Exhibit B"

[SEAL]
SUPERIOR COURT
FULTON COUNTY, GEORGIA

PROMISSORY NOTE

JOHN RANDOLPH CHERRY, as Executor under the last will of REBECCA WIGHT CHERRY SIMS, for value received does hereby promise to pay on demand to the order of SANDEASE, LTD. and COAST HOUSE, LTD. as joint venturers, the sum of Three Million Two Hundred Ninety Five Thousand Six Hundred Fifty Five & 88/100 Dollars ($3,294,655.88) with interest from the date hereof until paid at the rate of Twelve per cent (12%) per annum, and all costs of collection, including fifteen per cent of the principal and interest as attorney's fees if collected by legal action or through an attorney at law.

To secure the payment of this note, the maker hereby conveys and assigns to holder, pursuant to the terms and conditions of that certain letter agreement dated August 22, 1991 between the parties acting through their attorneys, the following property:

> The net proceeds after deduction of Attorneys Fees and Expenses recovered on any and all claims, settlements, or judgments based upon contribution, negligence, or any other legal theory against Moreton Rolleston, Jr., his heirs and assigns, or any other person, corporation, or other entity, arising as the consequence of advice rendered by Moreton Rolleston, Jr. for Mrs. Rebecca Wight Cherry Sims, in relation to her sale of her interest in that property situated in Glynn County, Georgia known as Camellia Cottage, and that certain judgment rendered in favor of Coast House, Ltd. and Sandease, Ltd., against the Maker hereof, namely Fulton County Superior Court Civil Action File Number D-81176.

Demand for payment, presentment, protest, and notice of protest and dishonor, and all other notices or demands whatsoever with respect to this note or the enforcement hereof are hereby waived.

The rights and remedies given herein to the holder are cumulative and in addition to those provided by law.

Given under the hand and seal of the undersigned, this 17th day of September, 1991.

/s/ John Randolph Cherry L.S.
JOHN RANDOLPH CHERRY as executor
under the last will of REBECCA WIGHT
CHERRY SIMS